



Staas & Halsey LLP  
Suite 700  
1201 New York Avenue, NW  
Washington, DC 20005

In re Application of	:	
CHAE et al.	:	
Application No. 09/913,956	:	
PCT No.: PCT/KR99/00796	:	
Int. Filing Date: 21 December 1999	:	DECISION
Priority Date: 21 December 1999	:	
Atty. Docket No.: 1546.1004	:	
For: Arginine-Rich Anti-Vascular	:	
Endothelial Growth Factor Peptides	:	
That Inhibit Growth And Metastasis..	:	

This is in response to the "Request For Withdrawal Of Abandonment" filed on 24 December 2003.

### **BACKGROUND**

This international application was filed on 21 December 1999, elected the United States, and did not claim an earlier priority date. No Demand electing the United States was filed prior to the elapse of 19 months from the priority date. The International Bureau transmitted a copy of the published international application to the USPTO on 13 September 2001. Accordingly, the 20 month time period for paying the basic national fee in the United States expired at midnight on 21 August 2001.

On 21 August 2001, applicant filed *inter alia* the basic national fee.

On 04 January 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an initial or substitute computer readable form (CRF) of the "Sequence Listing."

On 24 November 2003, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant, indicating that the application had become abandoned for failure to timely reply to the Notification of Missing Requirements.

### **DISCUSSION**

Counsel requests withdrawal of the holding of abandonment based on alleged non-receipt of the Notification of Missing Requirements mailed on 04 January 2002. As explained in MPEP 711.03(c), and following *Delgar v. Schuyler*, 172 USPQ 513 (D.D.C. 1971), an adequate showing of non-receipt of papers mailed to applicant by the Office must include (1) a statement by the practitioner that the Office action was not received by the

practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in petitioner's statement). A review of the totality of evidence now of record establishes that, within the practice under MPEP 711.03(c), petitioner has satisfied requirements (1) and (2), but has not satisfied requirement (3).

Regarding requirement (1), the petition includes an appropriate statement.

Regarding requirement (2), the petition includes an appropriate statement.

Regarding requirement (3), petitioner has not submitted copies of the appropriate docket records. Petitioner has submitted a copy of a "Patents Incoming Mail Log Per Action Mail Date," but this is not the required relevant docket record. Rather, petitioner must provide a copy of the docket record showing where the Notification of Missing Requirements would have been docketed for response had it been received - more specifically, a docket record showing all cases docketed for response on or before 04 March 2002. In the absence of such relevant docket records, it would not be appropriate to grant the petition at this time.

### **DECISION**

The petition is **DISMISSED**, without prejudice.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Leonard Smith  
PCT Legal Examiner  
PCT Legal Office



George M. Dombroske  
PCT Legal Examiner  
PCT Legal Office  
Tel: (703) 308-6721  
Fax: (703) 308-6459